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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/575,110	04/10/2006	Ulrich Simon	288320US0PCT	9373
22850 7590 10/29/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER DOLLINGER, MICHAEL M				
ART UNIT 1796		PAPER NUMBER		
NOTIFICATION DATE 10/29/2008		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/575,110

Applicant(s)

SIMON ET AL.

Examiner

MICHAEL DOLLINGER

Art Unit

1796

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 6-18 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1,2 and 6-18 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Response to Amendment

1. The objections to the claims and rejections under 35 USC 112 2nd Paragraph filed 14 May 2008 have been obviated by the amendment. Rejections under 35 USC 102 and 103 remain but have been revised as shown below by the Examiner in order to better address the claims. Response to Applicants arguments follow the revised rejections.

Double Patenting

2. The Double Patenting rejection presented in the Office Action filed 14 May 2008 to copending Application No. 10/575104 in view of Simon et al. (US 6,300,413 B1) has been overcome by the terminal disclaimer filed in the copending application.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 6-9 and 16-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Simon et al. (US 6,300,413 B1).

5. Regarding claim 1, applicants' claim a multilayer adhesive structure with 1) upper and lower dots based on an amine-terminated crosslinkable copolyamide, 2) a

crosslinker and 3) an acrylic and/or polyurethane dispersion. Simon et al. disclose a crosslinkable hot melt composition applied according to the double dot technique wherein 1) the upper and lower dots comprise amine-terminated copolyamide (column 1 line 10), 2) a crosslinker (column 2 line 42), and 3) acrylic and polyurethane dispersions (column 1 line 56-57).

6. Regarding claim 2, applicants claim the copolyamide with a melting range of 90°C to 150°C and a solution viscosity between 1.2 and 1.7. Simon et al. disclose identical ranges for these properties (column 3 lines 25-30).

7. Regarding claims 6 and 7, applicants claim a crosslinker that is an isocyanate that has more reactive groups per molecule and a melting range from 100°C and 130°C. Simon et al. disclose crosslinkers that are solid isocyanates with more than two free NCO groups and a melting range of 100-130°C (column 3 lines 3-5).

8. Regarding claim 8, applicants claim a crosslinker that is an epoxide having a melting range from 90 to 130°C, a molecular weight range from 2000 to 6000 and more than two epoxide groups per molecule. Simon et al disclose crosslinking components that are epoxides having a melting range from 90-130°C, a molecular weight range from 2000-6000, and more than two epoxide groups per molecule (column 3 lines 6-11).

9. Regarding claim 9, applicants claim a crosslinker that is a pulverulent free or blocked isocyanate. Simon et al. disclose a trimerized diisocyanate which has been passivated and processed as an aqueous paste (column 2 lines 44-48). A passivated isocyanate reads on a blocked isocyanate.

10. Regarding claim 16, applicants claim the multilayer adhesive structure wherein the copolyamides are based on lactames (LL, CL), dimer fatty acids and corresponding dicarboxylic acids and diamines having chain lengths of C2 to C15 and piperazine.

Simon et al. disclose the use of VESTAMELT X 1027-P1 as the copolyamide (column 3 line 53). VESTAMELT X 1027-P1 is the copolyamide used in the Example of the present specification and described as meeting all of the limitations of claim 16.

11. Regarding claim 17, applicants claim a method for using the multilayer adhesive structure for coating and/or lamination of sheet-like structures. Simon et al. disclose the use of their invention as coating and/or lamination of sheet-like structures (column 2 lines 27-29).

12. Regarding claim 18, applicants claim an interlining material for clothing composed of the multilayer structure adhesive. The Example in Simon et al. is an interlining material composed of a corresponding adhesive (column 4 line 9).

13. Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Simon et al. (US 6,300,413 B1) with evidence provided DEGUSSA High Performance Polymers with further evidence provided by DEGUSSA VESTAMELT X1027 Properties.

14. Applicants claim upper and lower dots wherein the copolyamides have different melting temperatures or viscosities. In the Example, Simon et al. disclose a double dot adhesive structure wherein the upper dot is a VESTAMELT X1027-P816 powder and the lower dot has VESTAMELT X 1027-P1 crosslinked with VESTANAT T 1890 and

mixed with lower melting point VESTOPLAST 408 and with the thickeners MIROX TX and INSTRASOL.

15. DEGUSSA High performance polymers discloses that the difference between VESTAMELT X1027-P1 and VESTAMELT X1027-P816 is the particle size (notes under Tables page 3).

16. DEGUSSA VESTAMELT X1027 Properties discloses that all VESTAMELT X1027 polymers have the same melting point (Table row 3) and viscosity (Table row 2). Since the Example in Simon et al. discloses a upper dot and lower dot comprising the same basic polymer with the same melting point and viscosity except the lower dot is crosslinked with other polymers and thickeners, the hotmelt adhesive structure necessarily has an upper and lower dot with polyamides having different melting points and viscosities .

17. Claim 13 is rejected under 35 U.S.C. 102(b) as being anticipated by Simon et al. (US 6,300,413 B1) with evidence provided by Mattor et al. (US 4,282,054).

18. Applicants claim the use of the lower dot of the multilayer adhesive structure as a strikethrough barrier. This is an intended use limitation. The recitation of an intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentable distinguish the claimed invention for the prior art. If the prior art structure is capable or performing the intended use, then it meets the claim.

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19. Simon et al. do not explicitly disclose that the lower dot is used as a strikethrough barrier. Simon et al. do teach however that the lower dot is crosslinkable (abstract).

20. Mattor et al. teach that crosslinkable resins can be used as a strikethrough barrier on a sheet-like structure (column 1, liners 53-58). Since the lower dot of Simon et al. is crosslinkable, it may be used as a strikethrough barrier.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

22. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al. (US 6,300,413 B1) in view of Kohlhammer et al. (US 5,977,244).

23. Regarding claim 11, applicants claim the use of epichlorohydrin as the crosslinker. Simon et al., discussed above, do not teach the use of epichlorohydrin as a crosslinker. Simon et al. do however teach that bisphenol A is a suitable crosslinker (column 3 lines 10-11)

24. Kohlhammer et al. disclose typical epoxide crosslinkers for textiles of acrylic copolymers (column 2 lines 13-16) are epichlorohydrin and bisphenol A (column 3, lines 47-50). Kohlhammer et al. henceforth teach that epichlorohydrin and bisphenol A are

functional equivalents for the purpose of crosslinking acrylic polymers. When the prior art recognizes two compounds as functional equivalent for the same purpose, it is *prima facie* obvious to substitute one compound for the other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used epichlorohydrin as a crosslinker in the hotmelt adhesive structure of Simon et al.

25. Additionally, selection of a known material based on its suitability for its intended use is *prima facie* obvious, see *Sinclair & Carroll Co. v. Interchemical Corp.*, 325 U.S. 327, 65 USPQ 297 (1945). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have crosslinked a lower dot of a double dot interlining with epichlorohydrin because Simon et al. teach that is within the skill of the art to crosslink the lower dot of a double dot structure and Kohlhammer et al. teach that textiles of acrylic copolymers may be crosslinked with epichlorohydrin.

26. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al. (US 6,300,413 B1) in view of Kohlhammer et al. (US 5,977,244) and in further view of Dobson et al. (US 5,242,877).

27. Applicant claims the multilayer adhesive structure wherein the crosslinking reaction is accelerated by catalysis. Simon et al., discussed above, do not teach the acceleration of crosslinking with accelerating catalysts.

28. Kohlhammer et al. disclose crosslinking catalysts for the textile binder composition (column 3, lines 58-60).

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29. Dobson et al. teach that catalysts speed up (accelerate) a reaction by lowering the activation energy (column 1 lines 27-29). Accelerating a reaction reduces reaction time and lowering the activation energy reduces energy input, both of which reduce production costs.

30. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have accelerated the crosslinking in a lower dot of a double dot interlining because Simon et al. teach that it is within the skill of the art to crosslink the lower dot of a double dot interlining and Kohlhammer et al. teach that it is within the skill of the art to use crosslinking catalysts for textile binders. One would have been motivated to do this because Dobson et al. teach that accelerating chemical reactions reduces the reaction time and energy input henceforth reduces cost. Absent any evidence to the contrary, there would have been a reasonable expectation of success in accelerating the crosslinking reaction of Simon et al. with crosslinking catalysts.

31. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al. (US 6,300,413 B1) in view of Hahnle et al. (US 6,455,600 B1).

32. Simon et al. do not disclose the acrylic component as a di- and/or triacrylate. Simon et al. do disclose the acrylic component as MIROX TX which is a polyacrylic acid derivative (column 4 line 3) and is used as a thickener (column 3 lines 56-58).

33. Hahnle et al. disclose water-swellaable or water-soluble synthetic polymers as thickeners and gives examples of such thickeners as homopolymers of (meth)acrylic

acid or copolymers of (meth)acrylic acid and a compound which contains at least 2 ethylenic double bonds such as butanediol diacrylate (column 10 lines 47-55). Hahnle et al., henceforth, teach that polymers of acrylic acid and polymers of diacrylates are functional equivalents for purpose of polymer thickeners. When the prior art recognizes two compounds as functional equivalent for the same purpose, it is *prima facie* obvious to substitute one compound for the other. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used a diacrylate polymer as a thickener in the hotmelt adhesive structure of Simon et al.

34. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Simon et al. (US 6,300,413) in view of Hiratsuka et al. (US 5,019,347).

35. Applicants claim the application of the lower dot in a halftone formation as a paste.

36. Simon et al. disclose application of a lower dot as a paste comprising a passivated isocyanate (column 2, lines 44-48) but fail to disclose application of the lower dot in halftone formation.

37. Hiratsuka et al. teach application of an multilayer adhesive coating applied to a sheet-like structure in a formation of dots distributed microscopically at random and of varying size and shape but appear essentially uniformly in total (Column 4, lines 18-21). Examiner takes the position that any non uniform distribution of dots that appears essentially uniform in total is considered the halftone method. Hiratsuka et al. teach that

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the adhesive area ratio can be adjusted (column 4, lines 28-34) and henceforth optimized to the thickness of the substrate by adjusting the size and width of the dots (column 4, lines 38-41).

38. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the halftone method with the multilayer adhesive structure of claim 1 because Simon et al. teach that it is within the skill of the art to form a double dot adhesive wherein the lower dot is applied as a paste and Hiratsuka et al teach it is within the skill of the art to apply an adhesive in the double dot method. One would have applied the lower dot in a halftone method in order to have controlled the amount of adhesive applied and receive the expected benefit of low waste application with variable adhesion and texture of the final interlining. Absent any evidence to the contrary, there would have been reasonable expectation of success of optimizing the adhesive area ratio to the thickness of the sheet-like structure to which the adhesive is applied.

International Search Report

39. The documents cited in the International Search Report have been considered. The US equivalent of X category reference EP 0 940 461 A, Simon et al. (US 6,300,413 B1), was included in the above prior art rejections.

Response to Arguments

40. Applicant's arguments filed 14 August 2008 have been fully considered but they are not persuasive. Applicant argues that the claimed crosslinkable melt adhesive structure a) react only in the melt, b) have a lower activation temperature and c) good water resistance. Examiner notes that none of these limitations are recited in the claims. Additionally, these arguments are not persuasive because:

- a. Simon et al. disclose that crosslinking occurs in the lower dot during drying and the upper dot during melting (column 4 lines 38-42). Drying occurs at 130°C (column 3 lines 64-66) and joining temperature occurs at 127°C (column 4 lines 9-11). All the starting materials melt at or below 120°C (column 55-64). There is no evidence that reaction occurs before melt in Simon et al.
- b. As discussed in a), the activation temperature is at most 127°C. The activation temperature discussed in Applicant's specification is in a range from about 100 to 130°C (see page 3 lines 24-28). The activation temperature of Simon et al. appears to be the same as Applicant's activation temperature.
- c. The base dot of Simon et al is dispersed in water (column 4 line 2) and the double dot structure is resistant to hydrolytic attack (column 4 lines 49-52) and henceforth the structure of Simon et al. has good water resistance.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL DOLLINGER whose telephone number is (571)270-5464. The examiner can normally be reached on Monday - Thursday 7:30AM-6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on 571-272-1302. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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